

# **An Introduction To SMALL CLAIMS COURT**

## **Who Can Sue And Be Sued?**

Any individual, business, partnership, or corporation (with a couple of exceptions) may bring a small claims suit for *recovery of money only* for an amount up to \$4,000. A small claims case must be filed in the county of the defendant's residence, or in the case of a traffic accident, the county where the accident occurred. The state of Washington may not be sued in Small Claims Court. Attorneys and paralegals are excluded from appearing or participating with the plaintiff or defendant in a small claims suit unless the judge grants permission.

## **How Much Does It Cost?**

You must pay the court clerk a filing fee at the time the suit is filed. The filing fee ranges among \$10 to \$25 depending on whether the county you file the lawsuit in supports a dispute resolution center. You may have some additional fees payable to the sheriff or process server to have the Notice of Small Claims served on the defendant. As an alternative, you may commence the suit by registered or certified, return receipt mailing. If you win your case, you are entitled to recover your costs of filing and service fees.

## **How Do I Get Started?**

First you will prepare a Notice of Small Claim form that is provided by the clerk. You are required to sign the Notice in the presence of the clerk, unless otherwise instructed by the court. On the Notice form a hearing date, trial date, or response date will be entered by the clerk. It is the plaintiff's responsibility to accurately identify the defendant, provide a proper address and, if possible, provide a phone number.

## **Serving The Notice**

The clerk will assist you with all the steps and procedures of starting a suit. The clerk is not allowed to give legal advice or attempt to predict how the judge might rule in a given situation. Service of the claim form can be accomplished by any of the following:

1. The Sheriff's Office;
2. A process server;
3. Any person of legal age (18) who is not connected with the case either as a witness or as a party; or
4. By mailing the copies to the defendant by registered or certified mail with a return receipt requested.

The Notice of Small Claim must be served on the defendant not less than ten (10) days before the first hearing. A return of service, or mail return receipt bearing the defendant's signature, must be filed at or before the time of the first hearing. You cannot personally serve the claim.

### **What If We Settle?**

In most cases, neither party is one hundred percent right nor wrong. You are encouraged to try to settle your case before trial. If you settle the dispute before the hearing, you must inform the court so the hearing can be canceled and your case dismissed. If the other party agrees to pay at a later date, you may ask the court for a continuance. If the other party pays before the postponed date, ask the court to cancel the hearing. If you do not receive your money by the time of the continued hearing, proceed with the case in court. *If you drop the suit, your filing fee and service costs are not returned.*

### **Preparing For The Trial**

You can help yourself by being well prepared. To prepare for the trial, collect all papers, photographs, receipts, estimates, canceled checks, or other documents that concern the case. It may be helpful to write down ahead of time the facts of the case in the order that they occurred. This will help you to organize your thoughts and to make a clear presentation of your story to the judge.

It is also a good idea to sit through a small claims court session before the date of your hearing. This will give you first-hand information about the way small claim cases are heard.

### **What Happens At The Trial?**

When you arrive at the court, report to the courtroom in which your case has been assigned. When your case is called in the courtroom, come forward to the counsel table and the judge will swear in all the parties and witnesses.

Don't be nervous--remember that a trial in small claims court is informal. The judge will ask the plaintiff to give his or her side first, then will ask the defendant for his or her explanation. Be brief and stick to the facts. The judge may interrupt you with questions, which you should answer straight out and to the best of your knowledge.

Be polite--do not interrupt--not just to the judge but also to your opponent. Whatever happens, keep your temper. Good manners and even tempers help the fair, efficient conduct of the trial, and make a good impression.

After both sides have been heard by the judge, he or she will normally announce the decision right then and will sign and hand the parties a judgment.

## **What If My Opponent Does Not Appear For Trial?**

If the defendant fails to appear for trial, the plaintiff will be granted judgment for the amount of the claim proven in court, plus costs--provided the plaintiff can show proof of service. If the plaintiff fails to appear, the claim is dismissed; however, generally the court will permit the plaintiff to start over, if good cause for the non-appearance is shown.

## **How Do I Collect My Money?**

A money judgment in your favor does not necessarily mean that the money will be paid. *The Small Claims Court does not collect the judgment for you.* If no appeal is taken and the judgment is not paid within 20 days, or the time set by the court in the payment plan, you may request (in writing) and upon payment of \$6 fee, that a transcript of the judgment be entered into the civil docket of the court. At that time you may proceed with a method of collection such as garnishment of wages, bank accounts, and other monies of the defendant or an execution may be issued on cars, boats, or other personal property of the judgment debtor. Remember, the clerks cannot give you legal advice. You may need the assistance of an attorney or collection agency at this point. In the alternative, you may take your transcript of the judgment and file it in superior court for a fee of \$15. Other fees may be required by the superior court clerk or county auditor. When this is done, it places a lien against all real estate in the name of the judgment debtor that is located in the county.

When the judgment has been paid in full you must send written notice to the district court that the judgment has been satisfied.

## **Can You Appeal A Case If You Lose?**

The party who files a claim or counterclaim cannot appeal unless the amount claimed exceeds \$1,000. No party may appeal a judgment where the amount claimed is less than \$250. If an appeal is taken to the superior court, the appealing party is required to follow the procedures set out in Revised Code of Washington (RCW) 12.36. The following steps must be taken *within 30 days* of the entry judgment:

1. Prepare a written Notice of Appeal and file it with the district court.
2. Serve a copy of that Notice on the other parties, and file acknowledgment or affidavit of service in district court.
3. Pay to the district court a \$6 transcript fee.
4. Deposit at the district court the \$110 superior court filing fee either in cash, money order, or cashier's check payable to the Clerk of the Superior Court. There may be additional fees that you will need to pay as set forth by local court rule.

You are also required to post a bond in a sum equal to twice the amount of the judgment and costs, or twice the amount in controversy, whichever is greater, (cash or surety) at the district court. When the bond is filed in the district court, the appellant (person appealing the decision) may request that the district court suspend enforcement of the judgment until after the appeal is heard.

Within 14 days of filing the Notice of Appeal, the district court clerk will file the court record at the superior court who will assign a new number and notify the district court. The district court clerk will

advise the appellant of that number, and the appellant must then contact the superior court for further instructions.

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